REMARKS

Administrative Overview

Claims 22-28 were presented for examination. Claims 22-28 were provisionally rejected on the grounds of non-statutory type double patenting. Claims 22 and 24 were rejected under 35 U.S.C. § 102(e) as being anticipated by Harper *et al.* ("Harper"). Claims 23 and 25-28 were rejected under 35 U.S.C. § 103(a) as being obvious over Harper in view of Bliley *et al.* Upon entry of this response, claims 22-28 are presented for examination. Applicants hereby petition for a two-month extension of time. The petition and required fee are included herewith.

Double Patenting

Claims 22-28 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 10, and 15-19 of copending Application Serial No. 10/618,092. Applicants file a terminal disclaimer with this paper, overcoming this rejection.

Rejection of Claims Under 35 U.S.C. §102

Claims 22 and 24 were rejected under 35 U.S.C. § 102(e) as being anticipated by Harper et al. Applicants respectfully traverse this rejection.

Claim 22 recites, in part, comparing the first dataset and the second dataset in order to determine whether the differences indicate the occurrence of an exceptional event. Harper fails to disclose, teach, or suggest such a feature.

Harper is generally directed to a predicting outages of a software system. To put it simply, in Harper the rejuvenation agent waits for symptoms and selects an appropriate rejuvenation time if indicated by the user. *See Col. 7, lines 17-22.* The Examiner stated in the Office Action at page 4 that column 7, lines 46-61 disclose comparing a first dataset and a second dataset in order to determine whether the differences indicate the occurrence of an exceptional event, the Applicants respectfully disagree. Column 7, lines 26-61 recite:

> Additional outages cause this learning process to be repeated, with a resulting improvement in the accuracy of identifying causal pre-outage conditions. For example, if a certain parameter is at one value just prior to one outage of a given class, and a radically different value just prior to a second outage of that same class, then it can be concluded that it is unlikely that either value of this particular parameter is associated with the class of outages being experienced, and the parameter can therefore be removed from the list of reliable predictors.

A careful examination of this language reveals that this section of Harper teaches how to eliminate certain parameters as predictors of an outage. This is different than comparing a first dataset and a second dataset in order to determine whether the differences indicate the occurrence of an exceptional event, as claimed by the Applicants.

As shown above, Harper fails to disclose, teach, or suggest each and every element of the claimed invention. Therefore, Harper fails as an anticipatory reference. As such, Applicants respectfully request that the rejection under 35 U.S.C. § 102(e) be reconsidered and withdrawn.

Rejection of Claims Under 35 U.S.C. §103

Claims 23 and 25-28 were rejected under 35 U.S.C. § 103(a) as being obvious over Harper in view of Bliley et al. Applicants respectfully traverse this rejection.

To establish a prima facie case of obviousness with respect to a claim, it is necessary that the prior art references, either alone or in combination, teach or suggest each and every limitation of the rejected claims. The Applicants respectfully submit that Bliley fails to cure the deficiencies of Harper.

Applicants' comments above with respect to Harper are reiterated herein with full force and effect.

Bliley is generally directed to a process for analyzing a fault log from a machine and comparing the fault logs. *See Col. 2, lines 45-58.* In contrast to comparing fault logs, Applicants claimed invention recites, in part, comparing the first dataset and the second dataset in order to determine whether the differences indicate the occurrence of an exceptional event. In Bliley, an event has already occurred and been logged. This is clearly different from

determining whether the differences between the logs indicate that an exceptional event happened.

In light of the above remarks, Applicants submit that any hypothetical combination of Harper and Bliley fails to disclose, teach or suggest each and every element of the invention as claimed by the Applicants. As such, the Applicants respectfully request that the rejections under 35 U.S.C. § 103 be reconsidered and withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Respectfully submitted,
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